

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 871 - HB 1036

April 1, 2015

SUMMARY OF ORIGINAL BILL: Creates the “Addiction Treatment Act of 2015.” Prevents certain criminal drug charges from being filed against an individual who is experiencing a drug overdose or is in the company of an individual who is experiencing a drug overdose and seeks or is the subject of a request for medical assistance. Any such person is immune to the following:

- Penalties for a violation of a permanent or temporary protective order or restraining order; or
- Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.

This immunity does not expand to:

- Provide protection against seizure of any evidence or contraband;
- Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime for an individual who doesn’t qualify for the aforementioned exemptions; or
- Limit the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense not immune by the aforementioned exemptions.

The act of providing first aid or medical assistance to an individual experiencing a medical assistance is a mitigating factor in a criminal prosecution. Creates certain exemptions, effectively authorizing the prescription of buprenorphine (used to treat opiate addiction to control acute pain), with or without naloxone (an opioid antagonist used to counter the effects of opiate overdose). Any prescriptions made for this purpose will count against the max limit of patients to which a practitioner may provide schedule III, IV, or V controlled substances, pursuant to U.S.C. § 8-23-(g)(2)(B)(iii). Limits the prescribing of buprenorphine mono (an opioid treatment drug that yields less severe cases of neonatal abstinence syndrome) without the use of naloxone to a patient who is either pregnant, a nursing mother, or has a documented history of an adverse reaction or hypersensitivity to naloxone. Requires any such prescriber of buprenorphine mono, if not the patient’s obstetrical or gynecological provider, to consult with the patient’s obstetrical or gynecological provider to the extent possible to determine whether the prescription is appropriate for the respective patient. The patient’s licensed physician is the sole prescriber of any Federal Food and Drug Administration (FDA)-approved buprenorphine product for use in a recovery or medication-assisted treatment. Requires effective documentation of a patient’s treatment schedules and requires, to the extent possible, notification of an addiction specialist in certain cases. Requires the Board of Medical Examiners and the Board of Osteopathic Examination to promulgate any necessary rules to establish requirements for licensees qualifying as addiction specialists.

Requires the Commissioner of the Department of Health or the Commissioner's designee to make recommendations for training of first responders in the appropriate use of opioid antagonists. Such recommendation must include a provision including the appropriate supply of opioid antagonists to first responders.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004287): Specifies that the immunity from arrest, charges, or prosecution shall apply to the person experiencing the drug overdose only on the person's first such drug overdose. Specifies that this proposed legislation shall not apply to perioperative surgery or ventilator sedation that is performed in a licensed healthcare facility. Authorizes prescribers to continue orders for buprenorphine, with or without naloxone for inpatients or outpatients of a hospital as part of a medication reconciliation process to continue home medications as previously prescribed and without restrictions pertaining to the use of such products until the patient is discharged from the facility. Any such prescription of buprenorphine, with or without naloxone, written upon discharge from the healthcare facility and intended to be filled by the patient at a retail pharmacy and consumed post-discharge must meet the requirements provided for in this legislation.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

Effects upon State Health Plans and TennCare:

- The provisions in this legislation regarding the prescribing of buprenorphine and naloxone largely update statute to comply with evidence-based standards that are currently in-place.
- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration, this legislation will have no significant effect on the state employee, local government, or local education health plans.
- Based on information provided by the Bureau of TennCare, granting immunity to those Medicaid recipients who are found to have experienced a drug overdose will not affect the lock-in program established in CFR 431.54(e). This lock-in program identifies Medicaid recipients who have over-utilized Medicaid services and may be restricted to certain designated providers for a period of time. The provisions regarding the prescribing of buprenorphine and naloxone will not affect the program, as such provisions affect the prescribing of drugs and not the specific coverage for Medicaid recipients.
- Based on information provided by the Department of Health, Division of Health Related Boards, any necessary rulemaking can be accomplished during regularly scheduled board meetings.

- Pursuant to Tenn. Code Ann. § 4-29-121, all health related boards are required to be self-supporting over any two-year period.
- The Board of Medical Examiners had an annual surplus of \$288,380 in FY12-13, an annual deficit of \$75,431 in FY13-14, and a cumulative reserve balance of \$2,365,965 on June 30, 2014.
- The Board of Osteopathic Examination had an annual surplus of \$101,696 in FY12-13, an annual surplus of \$94,728 in FY13-14, and a cumulative reserve balance of \$541,628 on June 30, 2014.

Citations

- This legislation is assumed to increase the frequency that an individual or person in the company of an individual who is experiencing a drug overdose seeks medical assistance for themselves or the incapacitated individual. This legislation may result in a decrease in the number of citations through increased immunity, as granted to encourage the seeking of medical assistance; however, any such decrease in citations is unlikely to result in a significant decrease in revenue from collection of fewer civil penalties.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

/jdb